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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,582	07/31/2001	Andrew Carl Root	ENL-275-A	2198
7590 10/06/2003			EXAMINER	
Young & Basile PC Suite 624 3001 West Big Beaver Road Troy, MI 48084-3107			COURSON, TANIA C	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/918,582

Applicant(s)

ROOT, ANDREW CARL

Examiner

Tania C. Courson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,10-17 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. The election requirement stated in the Office Action found in Paper No. 4 is hereby repeated and thus made FINAL.
2. Claims 8-9 and 18-19 remain withdrawn from further consideration as being drawn to a nonelected invention, there being no allowable generic or linking claim.
3. Thus, claims 1-7, 10-17 and 20 will be further examined in this action.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 10-13, 15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugerman et al. (US 4,443,005).

Sugerman et al. discloses a foot supporting device including the following:

- a) a member (Fig. 1, foot cover plate 32) having a planar surface on one side (Fig. 5),  
for receiving at least a portion of a sole of the foot thereon (Fig. 1);

- b) operating means (Fig. 2, locking knob 31 and ball joint 30) provided on the opposite side of the said member (Fig. 2) to said planar surface for operation of the member in the pressure application of the planar surface into contact with the at least portion of the sole (Fig. 1), said operating means further providing means for inverting and everting the planar surface of the member (Fig. 2) while the planar surface is in contact with the at least portion of the sole for inverting and everting the foot and for appropriate support and joint or other location of the sole during the application and setting of moulding material to at least the sole of the foot (Fig. 1);
- c) wherein the device includes a leg rest (Fig. 1, rod 11 and limb engaging member 14) for placing on a seat or couch and for receiving and positioning a leg of patient seated on the seat or lying on the couch (Fig. 1) whereby the foot of the leg extends forwardly from the leg rest (Fig. 1), the said member being movably mounted from the leg rest for movement to or from an operative contact position of its planar surface with the sole and for the inverting and everting of said surface relative thereto (Fig. 1);
- d) wherein the said member is hingedly mounted from the leg rest (Fig. 2, central support member 10) for movement about a substantially horizontal axis or about more than one such axes for movement to or from an operative contact position of its planar surface with the foot sole and for tilting of said surface relative thereto about the or each horizontal hinging axis (Fig. 2);
- e) wherein the said member is pivotally mounted from the leg rest (Fig. 2, central support member 10) for angular movement about a substantially vertical axis for

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angular side tilting of its planar surface relative to the foot sole when in contact therewith (Fig. 2).

With respect to method claims 10 and 20, method of taking a mould of a foot using the device: the method steps will be met during the normal operation of the apparatus stated above.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugarman et al., as applied to claims 1-5, 10-13, 15 and 20 as stated above, and further in view of Donnery (US 4,771,548).

Sugarman et al. discloses a foot supporting device as stated above in paragraph 5.

Sugarman et al. does not disclose a member carrying means for measuring and indicating the angle of angular movement of the said member and its planar surface about the substantially vertical axis when applied to a sole of the foot.

Donnery teaches a goniometer having a member carrying means for measuring and indicating the angle of angular movement of the said member and its planar surface about the

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substantially vertical axis (Fig. 1, goniometer 10) when applied to the sole of the foot (Fig. 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the foot supporting device of Sugarman et al., so as to include a member carrying means for measuring and indicating the angle of angular movement of the said member and its planar surface about the substantially vertical axis, as taught by Donnery, so as to provide a means for facilitating objective and consistent assessment of angular movement.

8. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens, as applied to claims 1-5, 10-13, 15 and 20 as stated above, and further in view of Fullen et al. (US 5,678,448).

Sugarman et al. discloses a foot supporting device as stated above in paragraph 5.

Sugarman et al. does not disclose operating means for measuring and indicating the pressure of application of the said member when the planar surface thereof is in contact with the foot sole.

Fullen et al. teach a system for measuring forces by the foot having operating means for measuring and indicating the pressure of application of the said member when the planar surface thereof is in contact with the foot sole (Fig. 2 and column 5, lines 64-69). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the foot supporting device of Sugarman et al., so as to include operating means for measuring and indicating the pressure of application of the said member when the planar

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surface thereof in contact with the foot sole, as taught by Fullen et al., so as to provide a compact force measurement system for minimizing restriction of movement by the user during use of the device.

### *Response to Arguments*

9. Applicant's arguments filed on June 30, 2003 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a foot supporting device:

Guhl (US 5,063,918)

Scott (US 4,886,258)

Scheidl (US 743,663)

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (703) 305-3031. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (703) 308-3875. The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DIEGO F.F. GUTIERREZ  
SUPERVISORY PATENT EXAMINER  
GROUP ART UNIT 2859

TCC  
September 22, 2003